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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/903,131

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Wright J. Nee

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EXAMINER

KNOWLIN, THJUAN P

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/903,131

Applicant(s)

NEE, WRIGHT J.

Examiner

Thjuan P. Knowlin

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's Appeal Brief and amendment filed on January 13, 2006 has been entered. No claims have been amended. Claims 2 and 42 have been cancelled. No claims have been added. Claims 1 and 3-41 are now pending in this application, with claims 1 and 35 being independent.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 3-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marrah et al (US 6,728,522), in view of De Bonet et al (US 6,985,694).
4. In regards to claims 1, 26, 29, 30, 31, 32, 35, and 39, Marrah discloses an apparatus, method, and product for selecting broadcast signals (See Abstract and col. 2 lines 7-16), the apparatus, method, and product comprising: a tuner (See Fig. 1, Fig. 2, "BAND" pushbutton switch 20, and weather band tuner 32) for receiving a plurality of broadcast signals from a plurality of broadcast sources (See col. 3 lines 5-9 and col. 3 lines 45-59); a memory (See Fig. 2 and flash memory 38), the memory including: a

current location of the receiver (See col. 3 lines 36-44 and col. 4 lines 17-29); and a database of broadcast sources for a plurality of broadcast locations (See col. 5 lines 45-50); and wherein the selection criteria includes the plurality of receivable broadcast signals (See col. 3 lines 5-9 and col. 3 lines 45-59), and the current location of the receiver (See col. 3 lines 36-44 and col. 4 lines 17-29). Marrah, however, does not disclose a set of listener preferences and a processor coupled to the tuner and the memory for selecting a group of broadcast signals based on a predetermined selection criteria. De Bonet, however, does disclose a set of listener preferences (See col. 3 lines 19-29, Fig. 5, col. 11 lines 37-48, and col. 12-13 lines 56-8) and a processor (See Fig. 3, streaming audio server (AS) module 32, and audio element selector (AES) module 38) coupled to the tuner and the memory for selecting a group of broadcast signals based on a predetermined selection criteria (See col. 8-9 lines 63-7 and col. 10 lines 9-14). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to employ these features within the system, as a way of providing a listening system that is customizable based on the user's preferences and demographics, by allowing a user to select the format and content to be provided within the radio broadcast (See col. 1-2 lines 66-3).

5. In regards to claims 3, 28, and 40, Marrah discloses the apparatus and method, wherein the database of broadcast sources further includes program formats for a plurality of broadcast locations (See col. 3 lines 45-59 and col. 5 lines 45-50).

6. In regards to claim 4, Marrah discloses all of claim 4 limitations, except the apparatus, wherein the current location of the receiver is entered by the listener. De

Bonet, however, discloses the apparatus, wherein the current location of the receiver is entered by the listener (See col. 9-10 lines 67-1 and col. 12-13 lines 56-8).

7. In regards to claims 5, 6, and 38, Marrah discloses all of claims 5, 6, and 38 limitations, except the apparatus and method, wherein the current location entered by the listener is a zip code. De Bonet, however, discloses the apparatus and method, wherein the current location entered by the listener is a zip code (See col. 11-12 lines 65-5 and col. 12 lines 30-37).

8. In regards to claim 7, Marrah discloses all of claim 7 limitations, except the apparatus, wherein the current location entered by the listener is a city name. De Bonet, however, discloses the apparatus, wherein the current location entered by the listener is a city name (See col. 11 lines 15-22 and col. 13 lines 9-20).

9. In regards to claim 8, Marrah discloses all of claim 8 limitations, except the apparatus, wherein the current location entered by the listener is entered via a keypad integral to the apparatus. De Bonet, however, discloses the apparatus, wherein the current location entered by the listener is entered via a keypad integral to the apparatus (See col. 9-10 lines 67-1 and col. 12-13 lines 56-8).

10. In regards to claim 9, Marrah discloses all of claim 9 limitations, except the apparatus, wherein the current location entered by the listener is entered via voice input. Marrah, however, does disclose the apparatus, wherein the current location entered by the listener is entered via a keypad integral to the apparatus (See col. 3 lines 1-10), therefore, it would have been obvious for one of ordinary skill in the art at the time

of the invention to employ this feature within the system as a way of providing to the listener another method of entering the current location.

11. In regards to claims 10, 36, and 41, Marrah discloses the apparatus and method, wherein the current location of the receiver is provided by a global positioning system (GPS) receiver (GPS receiver 40) integral to the apparatus (See col. 3 lines 41-44).

12. In regards to claim 11, Marrah discloses the apparatus, wherein the current location of the receiver is provided by a global positioning system (GPS) receiver external to the apparatus (See col. 4 lines 30-41).

13. In regards to claims 12 and 13, Marrah discloses the apparatus, wherein the current location of the receiver is provided by a cellular phone integral to the apparatus (See col. 2 lines 59-63).

14. In regards to claim 14, Marrah discloses the apparatus, wherein the database of broadcast services is provided to the receiver by a removable memory module (See col. 5 lines 45-50).

15. In regards to claims 15, 16, and 17, Marrah discloses all of claims 15, 16, and 17 limitations, except the apparatus, wherein the database of broadcast services is provided to the receiver by a CD-ROM disc, a CD-RW disc, or a writable DVD. Marrah, however, does disclose the apparatus wherein the database of broadcast services is provided to the receiver by a removable memory module (See col. 5 lines 45-50).

16. In regards to claims 18 and 27, Marrah discloses the apparatus, wherein the apparatus further includes an I/O port for transferring information from an external device to the apparatus (See col. 3 lines 31-44 and col. 4 lines 30-41).

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17. In regards to claim 19, Marrah discloses the apparatus, wherein the external device is coupled to the I/O port via a wired connection (See col. 2 lines 52-59).

18. In regards to claims 20, 21, and 22, Marrah discloses the apparatus, wherein the external device is coupled to the I/O port via a wireless connection (See col. 2 lines 59-63).

19. In regards to claim 23, Marrah discloses all of claim 23 limitations, except the apparatus, wherein the external device is a personal digital assistant (PDA). De Bonet, however, discloses the apparatus, wherein the external device is a personal digital assistant (PDA) (See col. 8 lines 15-18).

20. In regards to claim 24, Marrah discloses all of claim 24 limitations, except the apparatus, wherein the external device is a personal computer (PC). De Bonet, however, discloses the apparatus, wherein the external device is a personal a personal computer (See col. 8 lines 15-18).

21. In regards to claim 25, Marrah discloses all of claim 25 limitations, except the apparatus, wherein the external device is a wireless phone. De Bonet, however, discloses the apparatus, wherein the external device is a wireless phone (See col. 8 lines 15-18).

22. In regards to claim 33, Marrah discloses the apparatus, wherein the receiver (GPS receiver 40) is mounted within a mobile vehicle (See Fig. 2).

23. In regards to claims 34 and 37, Marrah discloses all of claims 34 and 37 limitations, except the apparatus and method, wherein the receiver is a hand-held

device. De Bonet, however, discloses the apparatus and method, wherein the receiver is a hand-held device (See col. 8 lines 15-18).

### ***Response to Arguments***

24. Applicant's arguments with respect to claims 1 and 3-41 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De Bonet et al (US 6,609,096) teach a system and method for overlapping audio elements in a customized personal radio broadcast. De Bonet et al (US 6,600,898) teach a method and apparatus for generating a number audio element in an audio system

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P. Knowlin whose telephone number is (571) 272-7486. The examiner can normally be reached on Mon-Fri 8:30-5:00pm.


27. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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28. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thjuan P. Knowlin

  
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